THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.12519 of 1997

Dated: 17.01.2007

Between:

Sri Perocharla Peddi Raju Annasatram, rep.,
By its Hereditary Trustee Pericherla Appala
Narasimha Raju.

..... PETITIONER

AND

The District Collector, Visakhapatnam District,
Visakhapatnam and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.12519 of 1997

ORDER:

Sri Pericherla Peddi Raju Annasatram, represented by its Hereditary Trustee Pericherla Appala Narasimha Raju, filed this writ petition questioning the notification dated 17.02.1996 issued by the respondent under Section 4(1) of the Land Acquisition Act, 1894, (for short "the Act") and the consequential declaration dated 10.04.1997 issued under Section 6 of the Act, for acquiring the land of the petitioner for the purpose of providing house sites to the weaker sections of the society.

It is the case of the petitioner that in the year 1936 one late Pericherla Peddi Raju endowed an extent of Ac.3.22 cents of land in

Sy.No.195/1 situated at Gopalapatnam village, Payakaraopeta Mandal, Visakhapatnam District, to the petitioner for running annadana satram, and a settlement deed to that effect was executed on 21.09.1936. The income out of the said land was utilized for the purpose of feeding wayfarers and also for providing shelter for them. While so, the respondent-authorities issued notification under Section 4(1) of the Act on 17.02.1996 to acquire the said land invoking urgency clause under Section 17 of the Act and thereby dispensing with enquiry under Section 5-A of the Act. Questioning the same the petitioner filed writ petition No.5802 of 1996. A learned Single Judge of this Court disposed of the said writ petition directing the respondents therein to conduct enquiry under Section 5-A of the Act after hearing the petitioner, and that the petitioner shall not be dispossessed until completion of enquiry under Section 5-A of the Act. It is also alleged that pursuant to the said direction, the respondent-authorities appear to have conducted formal enquiry without giving opportunity and without informing anything subsequent to the enquiry. But, subsequently, declaration under Section 6 of the Act was also issued on 10.04.1997. Now the grievance of the petitioner is that though there are other vacant lands adjacent to the land of the petitioner, only its land is sought to be acquired, without conducting proper enquiry under Section 5-A of the Act and without giving opportunity to it. Its further grievance is that though there are 200 coconut plants aged about 3 years in the land, the same was not mentioned in the notification and declaration in order to avoid payment of compensation. Hence, the petitioner sought to quash the notification issued under Section 4(1) of the Act as well as the declaration issued under Section 6 of the Act.

The respondents filed counter-affidavit denying the allegations in the affidavit filed in support of this writ petition and stated that as per the

directions of this Court in the earlier writ petition, enquiry under Section 5-A of the Act was conducted and the trustee of the petitioner also participated in the said enquiry and deposed that he got other land in the said village, but has not agreed to part with the land in question. It is further stated that as there is no alternative land for providing house sites to the weaker sections, the land in question is sought to be acquired. It is also stated that after notification under Section 4(1) of the Act was issued, 162 coconut plants were planted in the land in question for getting huge compensation. Hence they conclude that there are no merits in the writ petition and the same is liable to be dismissed.

When the matter is taken up for hearing, learned counsel for the petitioner submits that the hereditary trustee of the petitioner by name Pericherla Appala Narasimha Raju is no more and though he addressed letters, none has come forward to represent the petitioner.

From a perusal of record it appears that in the earlier round of litigation, the said trustee Pericherla Appala Narasimha Raju challenged the impugned notification dated 17.02.1996 issued under Section 4(1) of the Act and this Court disposed of the same with a direction to the authorities concerned to conduct enquiry under Section 5-A of the Act and accordingly the said enquiry was conducted and the trustee of the petitioner also participated in the said enquiry. In fact, the grounds which are raised in this writ petition were raised in the said writ petition. As the respondent-authorities have followed due process of law, this Court is of the view that the writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

17.01.2007

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